

## **REMARKS**

In the Office Action dated August 10, 2004, the Examiner rejected claims 1-15, 17, and objected to claims 16 and 18-35. Claim 6 was cancelled in a previous response. Claims 1-5 and 7-35 remain pending.

Claim 21 is amended and new claim 36 is added herein. Claims 21 and 36 merely add or recite a limitation included in a prior claim.

Applicant has fully considered the Office Action. In view of the following remarks and arguments, Applicant respectfully requests reconsideration of the above-identified application.

Claims 1-15 and 17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,846,642 to Kimura, et al. Applicant respectfully traverses this rejection.

Applicant respectfully submits that Kimura does not teach or suggest a method to decrease the aldehyde content of a polyester. Kimura identifies various possible sources of poor taste in a polyester including i) the adsorption of fragrance ingredients (i.e., flavors) (See, e.g., Column 1, lines 41-43 (noting that a desired property of the polyester film used in metallic cans is "[n]ot to adsorb the fragrance ingredient of the content of the cans or not to impair the flavor of the content (hereinafter called the taste property)"); and ii) the acetaldehyde content of the polyester (Column 3, lines 23-30). Kimura also discloses that the germanium content of the polyester may impact the taste property of a polyester (Column 3, lines 48-51). Kimura notes that the germanium may be added to the polyester as a polymerization catalyst. Applicant respectfully submits that, contrary to the Examiner's position, Kimura does not teach or disclose the use of germanium or the germanium polymerization catalyst as an additive for reducing the acetaldehyde content of a polyester by any chemistry, let alone as a hydride transfer catalyst.

Kimura's teaching of incorporating germanium into a polyester via a polymerization catalyst does not teach the method of claims 1-15 and 17. Applicant notes that the polymerization reaction of a polyester such as ethylene terephthalate is not a hydride-transfer reaction. Further, a polymerization catalyst, such as may be used in the polymerization of PET, is not inherently a hydride-transfer catalyst. Thus, Kimura's mere teaching to use germanium as a polyester polymerization catalyst does not teach incorporating an additive capable of catalyzing a hydride-transfer reaction into a polyester.

Additionally, Kimura does not teach or suggest the use of a germanium polymerization catalyst to reduce the aldehyde content of a polyester by any chemistry, let alone as a hydride-transfer catalyst. Specifically, Kimura does not teach that the improved taste property of a polyester is due to the effect that germanium polymerization catalyst may have on the aldehyde content of the polyester. In Example 1, Kimura reports that the product PET prepared using a germanium polymerization catalyst as the catalyst had a good taste property and an acetaldehyde content of 18 ppm (Table 1). In Example 6, however, Kimura reports that a PET prepared with an antimony polymerization catalyst had a lower taste property than Example 1 and an acetaldehyde content of 16 ppm, i.e., lower than Example 1 prepared with the germanium polymerization catalyst (Table 2). Thus, Kimura does not teach or disclose that the use of a germanium compound as the polymerization catalyst results in a lower acetaldehyde content than the use of a standard antimony polymerization catalyst, or that the improved taste property imparted by germanium is due to any effect the germanium might have on the acetaldehyde content of the polyester.

The Kimura patent itself provides evidence that it does not teach the method of the present claims. First, the method used by Kimura to determine the taste property of the prepared polyesters focuses on the adsorption of limonene by the polyester. Thus, Kimura is directed to the impact of the polyester on the adsorption of flavors, rather than the release of acetaldehyde in the polyester.

Second, Kimura identifies several methods to reduce the acetaldehyde content of a polyester (Column 3, lines 29-42). Applicant submits that these methods are well-known in the art, and that none of them include the use of a hydride-transfer reaction to reduce the acetaldehyde content of the polyester. Additionally, Kimura notes that the method for maintaining the acetaldehyde content of a polyester at a desired level is "not especially limited" (Column 3, lines 27-29). The Kimura reference simply does not teach or suggest that its method of preparing a polyester with a germanium or antimony polymerization catalyst is a suitable method for reducing the aldehyde content of a polyester. Thus, Kimura does not teach the method of the present claims.

Moreover, Kimura fails to teach or suggest other aspects of the claims. Specifically, Kimura fails to teach a method to decrease an aldehyde content of a polyester that comprises incorporating an effective amount of an additive that is

capable of catalyzing a hydride-transfer reaction between an organic donor molecule and an aldehyde wherein the additive: a) is a hydrous metal oxide (claim 4); b) is a hydrous zirconium oxide (claim 5); c) is present in the polyester of a concentration between about 1 and 2000 ppm (claim 8); d) is present in the polyester at a concentration between about 10 and 500 ppm (claim 9); or e) has a surface area of about 200-500 m<sup>2</sup>/g (claim 14). Additionally, Kimura fails to teach a method of forming a polyester container comprising combining an additive selective from hydrous metal oxides and a molten poly(ethylene terephthalate) homopolymer or copolymer (claim 17). Applicants respectfully submit that Kimura does not teach or suggest such features and the Examiner has not shown where Kimura teaches such features. The Examiner, in fact, has already indicated that such subject matter is allowable.

For at least these reasons, Applicant respectfully submits that the Kimura '642 reference does not anticipate claims 1-15 and 17. Applicant respectfully requests that the rejection of claims 1-15 and 17 be withdrawn.

Claims 16, and 18-35 are objected to as being dependent upon a rejected base claim. Applicant respectfully disagrees with these objections.

Claims 16 and 18 are dependent upon claims 1 and 17, respectively. In view of the foregoing remarks, Applicant submits that claims 1 and 17, and any claims dependent therefrom, are not anticipated by the Kimura reference and that the rejection in view of Kimura should be withdrawn. Consequently, Applicant submits that claims 16 and 18 are no longer based upon a rejected claim.

With respect to claims 20-35, applicant notes that claims 20 and 21 are already in independent form. Thus, Applicant believes that claims 20 and 21, and claims 22-35, which are dependent from one of claims 20 and 21, are in condition for allowance. Applicant respectfully requests that the objection of claims 16, and 18-35 be withdrawn.

In view of the above, Applicant respectfully requests withdrawal of the rejections and objections. If any fee is due in conjunction with the filing of this response, Applicant authorizes deduction of that fee from Deposit Account No. 06-0308.


### CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-5 and 7-35) are now in condition for allowance.

Respectfully submitted,

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November 24, 2004  
Date

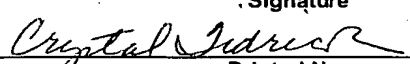
  
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